

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

FILED
U.S. BANKRUPTCY COURT
WESTERN DISTRICT OF N.C.

NOV 28 1995

J. BARON GROSHON
BY EDC
Deputy Clerk

In Re:

James L. Hyde &
Lela T. Hyde

debtors.

Case No. 95-20070
Chapter 7

JUDGEMENT ENTERED ON NOV 28 1995.

ORDER SUSTAINING TRUSTEE'S OBJECTION TO
DEBTOR'S CLAIM FOR EXEMPTION

This matter came before the court on the Trustee's Objection to Debtors' Claim for Exemption filed October 18, 1995. After review of the record and examination of the appropriate law and statutes, the court has concluded that the Trustee's objection should be sustained. However, the court further finds that in circumstances such as in this case, the Trustee should be permitted to abandon the property under §544 of the Bankruptcy Code. The court makes the following Findings of Fact and Conclusions of Law:

1. The debtors filed a petition under Chapter 7 of the Bankruptcy Code on August 7, 1995.
2. In the Petition and Schedules, specifically schedules B and C, the debtors listed as personal property four (4) automobiles and claimed an exemption in all four of them under 11 U.S.C. §522(b)(2). The debtors specified N.C.G.S. §1C-1601(a)(3)

as the law providing for each exemption. The automobiles listed were as follows:

<u>Description of Property</u>	<u>Value of Claimed Exemption</u>
1977 Ford Truck	\$500.00
1983 Honda Accord	500.00
1985 Cadillac	600.00
1986 Buick Skylark	200.00

In this case, the total value allowed exempt by each debtor is only \$900.00.

3. On October 18, 1995, the Trustee filed an objection to the claimed exemptions.

4. N.C.G.S. 1C-1601(a)(3) states a "debtor is entitled to retain free of the enforcement of the claims of creditors . . . [t]he debtor's interest, not to exceed one thousand five hundred dollars (\$1,500) in value, in one motor vehicle" (emphasis added).

5. The statute is plain on its face, and is not subject to expansion in interpretation. The statute does not permit a debtor to exempt the value in more than one automobile. Since the debtors have attempted to exempt more than one vehicle a piece, the Trustee's objection should be sustained.


6. However, in a case such as this, where the value in all the cars is of such a small amount, the Trustee should be permitted to abandon the property under §544 of the Bankruptcy Code. The court concludes that the Trustee should have the discretion

to abandon the non-exempt vehicles in circumstances where: (i) the total value of all the debtors' automobiles is less than the allowed exemption under the statute; (ii) disposition of the non-exempt vehicles would not produce a substantial benefit to the estate; and (iii) abandonment would not cause any substantial abuse.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. The Trustee's Objection to Debtors' Claim for Exemption is hereby SUSTAINED.

This the 28th day of November, 1995.



George R. Hodges
United States Bankruptcy Court